

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 191 of 1992

Date of decision : June 1, 2007

State of H.P.	...Appellant.
Versus	
Kartar Singh	...Respondent.

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting?

For the appellant: Mr. Som Dutt Vasudeva, Additional Advocate General, with Mr. D.S. Nainta, Advocate.

For respondent : Mr. V.S. Rathore, Advocate, vice Mr. Rajesh Vats, Advocate.

Surjit Singh, Judge (Oral)

Respondent was tried by the Sessions Court for allegedly committing offences punishable under Sections 353, 333 and 506 IPC.

2. Prosecution version, as per record of the trial Court, may be summed up thus. Respondent and PW-1 Atma Ram were employed as Clerk and Second Headmaster, respectively, in Gindpur Malaun High School in the year 1989. PW-1 Atma Ram, Second Headmaster, used to officiate as Headmaster in the absence of the incumbent of the post of Headmaster, Sh. Arjun Singh PW-3. On 24th April, 1989, PW-3 Arjun Singh did not turn up upto 11.30 a.m. PW-1 Atma Ram assumed that PW-3 Arjun Singh might be on leave. Therefore, he called for the attendance register to find out if all the staff members had come to the school and marked their attendance. He found that the respondent, who

¹ **Whether reporters of the local papers may be allowed to see the judgment?**

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was employed as a Clerk, was neither present in the school nor was his presence marked in the attendance register. So, he put some mark in the attendance register in appropriate space against the name of the respondent indicating that he was absent. On 27th April, 1989, PW-3 Arjun Singh called PW-1 Atma Ram to his Office. Respondent was already there. PTI Ram Lal was also in the Office of the Headmaster. Headmaster asked PW-1 Atma Ram as to who had put the mark against the name of the respondent in the attendance register indicating that he was absent on 24th April, 1989. Atma Ram PW-1 told that it was he who had put that mark. Respondent then allegedly pounced upon him, kicked and fisticuffed him and threw him on the floor of the Office. As a result of the beating given by the respondent, PW-1 Atma Ram sustained injuries, including fracture of rib.

3. Matter was reported to the Superintendent of Police through application Ex. PA. Police investigated the matter. Atma Ram PW-1 was got medically examined. Four injuries were noticed on his person. One of these injuries was opined to be grievous in nature, because of fracture of one of the ribs. The fracture was detected after X-Ray examination of the swollen part of the chest.

4. Trial Court acquitted the respondent holding that the respondent and PW-1 Atma Ram were on inimical terms from before the occurrence and since the testimony of PW-1 Atma Ram had not been corroborated by any other witness, it was not safe to hold the respondent guilty solely on the basis of Atma Ram's testimony.

5. We have heard the learned Additional Advocate General and the learned counsel for the respondent.

6. The view taken by the learned trial Court, in our considered view, cannot be said to be improbable. It has come in the testimony of PW-1 Atma Ram that before the occurrence the respondent had made a

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telegraphic complaint against him about his absence from the Office to the District Education Officer and that on the basis of that complaint he was called upon to explain his conduct by the District Education Officer. That means Atma Ram and the respondent were not on good terms. PW-3 Arjun Singh and the Chowkidar PW-2 Dev Raj, through whom PW-1 Atma Ram was allegedly called to the Office of the Headmaster, do not corroborate the testimony of PW-1 Atma Ram. No doubt, they were cross-examined with the leave of the Court and are contradicted by their previous statements, i.e. the statements under Section 161 Cr.P.C., with which they were duly confronted and, therefore, their not supporting the prosecution version, cannot be taken to be a circumstance in favour of the respondent but even the doctor, who conducted medico legal examination, namely PW-4 Dr. Y.P. Sharma, did not rule out the possibility of PW-1 having sustained the injuries as a result of fall. Suggestions were thrown to PW-1 Atma Ram, in the course of his cross-examination, that he had sustained the injuries while driving the scooter on *Kutchra* road. Atma Ram admitted that he had a scooter and a stretch of 2 to 2½ Kms. of the road was *Kutchra*, though he denied that he fell from his scooter on *Kutchra* portion of the road, because of his being not very familiar with the driving of the scooter on *Kutchra* road. He, however, admitted that he was not well versed in driving the scooter on *Kutchra* road.

7. In the light of what has been noticed hereinabove, it cannot be said that the view taken by the trial Court is improbable. Hence, the appeal is dismissed.

(Surjit Singh), J

June 1, 2007^(sd)

(Sanjay Karol), J